

The Bureau for Private Postsecondary and Vocational Education of the Department of Consumer Affairs hereby proposes to adopt, amend and repeal regulations in Chapter 5 and proposes to adopt Chapter 9 in Division 7.5 of Title 5 of the California Code of Regulations as follows:

Proposed Language

(1) Amend section 74006 subdivisions (a) through (e), and adopt subdivision (d) to read as follows:

74006. Annual Fee.

(a) Except as specified in subdivision (d), ~~Every~~ every institution shall pay the applicable annual fee within 30 days of the date on which the institution originally received its approval to operate and each year thereafter on the anniversary of the date of the original approval.

(b) An institution or a registered institution shall pay its annual fee in addition to any other applicable fees set forth in the fee schedule.

(c) Except as provided in ~~subsection~~ subdivisions (d) and (e), the annual fee assessed to an institution shall be at least seven hundred dollars (\$700) and shall not exceed the lesser of one percent of the institution's annual gross revenues or eight thousand dollars (\$8,000).

(d) The annual fee assessed to a registered institution shall be paid during the first quarter of the calendar year following the registration of each type of educational service or program. The Bureau shall bill each registered institution during the month of January based on the type of educational service or program in accordance with Section 78022. The registered institution shall remit the annual fee to the Bureau within 30 days of the date of mailing of the billing notice.

~~(d)~~ (e) An annual fee of up to one hundred dollars (\$100) for the Bureau's monitoring of exemption status under Section 94739 of the Code.

NOTE: Authority cited: Sections 94774 and 94778, Education Code. Reference cited: Sections 94710, 94915, 94931, and 94932, Education Code.

(2) Amend section 74030 subdivisions (a) and (b) to read as follows:

74030. Application for Change of Ownership.

(a) No change of ownership, change in control, or shift in control shall take place or have any validity or effect until the applicant applies for approval or, in the case of a registered institution, submits a new Application for Registration, Form #R-01, effective January 1, 2006 and the Bureau grants approval for a change of ownership or shift or change in control.

(b) The application shall be made in writing and shall contain or be accompanied by the following:

(1) An application for a new approval to operate or, in the case of a registered institution, a new application for registration, which that may incorporate by reference information contained in the institution's most recently filed application for approval to operate or the initial application for registration to the extent that information applies and is not misleading as to the applicant;

(2) A detailed description of the change of ownership or shift or change in control;

(3) The prescribed fee.

(c) (Continued)

NOTE: Authority cited: Sections 94774 and 94778, Education Code.
Reference: Sections 94739, 94802, ~~and~~ 94846 and 94931, Education Code;
Section 2015.5 Code of Civil Procedure.

(3) Amend section 74040 subdivisions (a) and (b) to read as follows:

74040. Completion of Application

(a) Within 15 days after receipt of an institution's application for a change of ownership or shift or change in control or, in the case of a registered institution, a new application for registration as described in Section 74030 of this chapter, the Bureau shall notify the applicant in writing that the application has been

accepted for filing or that the application is not complete. If the application is not complete, the Bureau shall specify in the notice what additional information or documents the applicant must submit for the application to be deemed complete.

(b) The Bureau shall consider that an institution's application for a change of ownership or shift in control or, in the case of a registered institution, a new application for registration is complete if it appears that the applicant has submitted all of the information and documents required by Section 74030 of this chapter, including the application and all supporting information and documents for a new approval to operate or for registration.

(c) and (d) Continued

NOTE: Authority cited: Sections 94774 and 94778, Education Code.
Reference: Sections 94802, 94840, and 94846 and 94931, Education Code.

(4) Adopt Chapter 9 and title in Division 7.5 of Title 5 of the California Code of Regulations (CCR) to read as follows:

CHAPTER 9. Registered Educational Services or Programs

(5) Adopt article number and title to read as follows:

Article 1. General Provisions

(6) Adopt section 78000 to read as follows:

78000. Applicability

Unless otherwise specified, Chapter 9 of Division 7.5 of Title 5 of the California Code of Regulations applies to the following types of educational services and programs:

(a) "Continuing Education" as defined in Section 94722 of the Code.

(b) "Intensive English Language Program" as defined in Section 94733 of the Code.

(c) "License and Exam Preparation" as defined in Section 94734 of the Code.

(d) "Short-Term Career Training" as defined in Section 94742.1 of the Code.

(e) "Short-Term Seminar Training Program." For purposes of this subdivision, "short-term seminar" means:

(1) The total charge to the student is more than five hundred dollars (\$500) and not more than two thousand dollars (\$2,000).

(2) The length of training is 250 hours or less.

(3) The service is not any of the following:

(A) Instruction leading to a degree.

(B) Instruction financed by a federal or state loan or grant.

(C) Any educational service that was originally longer than 250 hours or cost more than two thousand dollars (\$2,000), but has been structured into segments to meet the requirements of this subdivision.

NOTE: Authority cited: Sections 94774, 94778, 94787 and 94882, Education Code. Reference: Sections 94722, 94733, 94734, 94742.1, 94742.3, and 94931, Education Code.

(7) Adopt section 78006 subdivisions (a) and (b) to read as follows:

78006. Application for Registration

(a) Except as provided in Section 94931(b) of the Code or if exempt under Sections 94750 or 94905 of the Code, an initial Application for Registration, Form #R-01, effective January 1, 2006 must be submitted for each type of educational service or program listed in Section 78000. A separate, Form #R-01 effective January 1, 2006 must be submitted for each type of educational service or program listed in Section 78000.

(b) As provided in Section 94931(b) of the Code, an institution or applicant may submit an approval to operate application in lieu of the application for registration to offer the types of educational services or programs listed in Section 78000.

NOTE: Authority cited: Sections 94774, 94778, 94787 and 94882, Education Code. Reference: Sections 94722, 94733, 94734, 94742.1, 94742.3, 94750, 94905, and 94931, Education Code.

(8) Adopt section 78008 to read as follows:

78008. Degree and Non-Degree Institutions that Offer Educational Services or Programs Subject to Registration.

(a) An institution subject to Article 8 or 9 of the Act that elects to include educational services or programs listed in section 78000 in its initial or renewal application for an approval to operate, or registration application, complies with all requirements mandated by Section 94931, subdivision (b) of the Code, including maintaining a separate set of student records for registered educational services, is not required to include registered educational services or programs in the following reports and calculations:

(1) Annual reports submitted pursuant to Section 94808 of the Code;

(2) Calculations of payment of fees pursuant to section 74000(b)(1); and

(3) Calculations of enrolled students for the purpose of qualifying for an exemption under section 94785 of the Code.

(b) Educational services or programs listed in section 78000 that are included in an initial or renewal application for an approval to operate are still subject to the initial application fees in section 78020 and annual fees in section 78022.

(c) A program of instruction offered under an institution's approval to operate may not be divided or restructured as one of the educational services or

programs listed in section 78000 to avoid the application of any provision of the Act.

NOTE: Authority cited: Sections 94774 and 94778, Education Code. Reference: Sections 94785, 94808, 94829, 94832, and 94931, Education Code.

(9) Adopt section 78010 to read as follows:

78010. Notification of the Addition of an Educational Service or Program of the Same Type.

(a) An institution or registered institution that proposes to offer additional educational services or programs that are of the same type as those that have already been registered shall notify the Bureau within 30 days of adding the educational service or program and shall provide the name of course, course description, length of program, hours, and cost of the program on the institution's letterhead. No new fee shall be collected for the addition of an educational service or program of the same type.

(b) Failure to provide accurate and timely information to the Bureau is grounds for denial of the application or revocation of the institution's registration status.

NOTE: Authority cited: Sections 94774 and 94778, Education Code. Reference: Sections 94829, 94832 and 94931, Education Code

(10) Adopt article number and title to read as follows:

Article 2. Schedule of Fees

(11) Adopt section 78020 to read as follows:

78020. Fees Payable with an Application for Registration

(a) The applicant shall pay an initial registration fee or a change of ownership fee for each type of educational service or program offered. The following schedule shall apply:

(1) Five hundred dollars (\$500) for one or more Intensive English Language programs.

(2) Eight hundred dollars (\$800) for one or more Short-term Career Training programs.

(3) Five hundred dollars (\$500) for one or more Short-term Seminar Training programs.

(4) Five hundred dollars (\$500) for one or more License and Exam Preparation programs.

(5) Five hundred dollars (\$500) for one or more Continuing Education programs.

(b) The amount of the registration fee shall be the total of all of the fees that apply in accordance with the fee schedule established in subdivision (a) of this section and shall be submitted with the Application for Registration, Form #R-01, effective January 1, 2006.

(c) Application fees and document fees are non-refundable.

NOTE: Authority cited: Sections 94774 and 94778, Education Code. Reference cited: Section 94931, Education Code.

(12) Adopt section 78022 to read as follows:

78022. Fees Payable Annually

(a) A registered institution offering a registered educational service or program shall pay an annual fee in accordance with Section 74006(d) based on the type of educational service or program in accordance with the following fee schedule:

(1) Two hundred (\$200) for one or more Intensive English Language programs.

(2) Two hundred dollars (\$200) for one or more Short-term Career Training programs.

(3) Two hundred dollars (\$200) for one or more Short-term Seminar Training programs.

(4) Two hundred dollars (\$200) for one or more License and Exam Preparation programs.

(5) Two hundred dollars (\$200) for one or more Continuing Education programs.

(b) The amount of the annual fee shall be the total of all of the fees that apply in accordance with the schedule of fees established in subdivision (a) of this section and shall be submitted as specified in Section 74006(d).

(c) A registered institution that is more than 30 days delinquent in the payment of any fee shall pay a penalty fee of 20 percent of the amount of the fee that is delinquent.

(d)(1) If a registered institution fails to pay its annual fee and penalty fees within 30 days after the annual fee is due, the Bureau shall send the registered institution a notice by first-class mail indicating the Bureau's intent to initiate proceedings to revoke its registration status within 15 days unless the registered institution does any of the following:

(A) Pays its annual fee and penalty fee.

(B) Provides evidence of payment.

(C) Establishes that no payment is owed.

(2) If a registered institution fails to do any of the acts described in subparagraphs (A) through (C) of paragraph (1) within the prescribed time period, the Bureau shall initiate proceedings to revoke the registration status. Prior to taking any action for revocation, the Bureau shall notify the registered institution of its right to request a hearing and present evidence. If a hearing is requested, it shall be limited to the issues of whether an annual fee or penalty

was owed and, if so, whether the annual fee and penalty was paid when originally due.

(3) The procedure specified in this subdivision is cumulative to any other right or remedy the Bureau may invoke against a registered institution that fails to pay its annual fee or a penalty fee when originally due. Nothing in this subdivision restricts the Bureau's authority to bring other administrative or judicial action against a registered institution that fails to pay its fees when due.

(4) A registered institution whose registration status was revoked because of nonpayment of an annual fee or penalty fee may seek registration only by filing a new Application for Registration, Form #R-01, effective January 1, 2006.

(e) Subdivisions (c) and (d) do not create a "grace period" or an extension of the due date for the payment of fees.

(f) A registered institution that discontinues providing a registered educational service or program shall notify the Bureau of this action prior to the due date of the annual fee.

(g) A registered institution that fails to notify the Bureau that it has discontinued providing a registered educational service or program and subsequently applies for approval or registration shall pay every annual fee that is outstanding or a new registration fee, whichever is greater.

(h) Before any new registration is issued, an applicant shall pay all outstanding fees to the Bureau in accordance with Section 94841 of the Code.

NOTE: Authority cited: Sections 94774 and 94778, Education Code. Reference: Sections 94830, 94835, 94841, 94931, 94931.1, 94957 94965, and 94975, Education Code.